

REMARKS

This paper is responsive to the Office Action mailed April 2, 2008. Previously withdrawn claims 1, 44, 63, 68, 75, and 79 have been cancelled. Claim 21 and dependent claims 84–105 remain pending in this application.

I. The Examiner's Rejections

The Examiner maintains his rejection of claims 21 and 84–105 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,509,064 (“Welner”) in view of U.S. Patent No. 6,222,919 (“Hollatz”). Claim 21 is also rejected under 35 U.S.C. § 112 for failing to provide antecedent basis for the term “counseling.”

II. Applicant's Response

A. The Examiner Confuses Customer Service Representatives with Counselors

At p. 4 of the Office Action, the Examiner explains that “The Examiner considers a caller trying to receive general information and then being transferred to a customer service representative as shown at Column 4, ll. 61–65 to be equivalent to a user having a desire to be counseled.” This interpretation greatly misconstrues Welner.

Counselors and CSRs are different. Welner clearly shows on Fig. 2A that in some instances a customer service representative is needed, while in other cases as shown on Fig. 2B, a counselor is needed (numbers 254 and 264 respectively). In the art of giving test results over the phone to anonymous callers, the use of counselors is of the greatest importance. Welner distinguishes between receiving representative and counselor (col. 3, ll. 9–10).

If, heaven forbid, an untrained customer service representative were to give test results, such as a positive HIV test, over the phone to anonymous callers, the result could be suicide or a mental collapse leading to unprotected acts based on a “what do I have to lose” mindset. The call center would be unable to alert authorities of potential problems since the identity of the caller is unknown. The fact is, the ultimate responsibility comes from giving anonymous test results over the phone. Counselors are trained professionals who must take careful steps as to how information is managed in hope of limiting the repercussions of providing news of these extremely difficult diagnostics. Testing centers do not have endless counselor resources. Customer service representatives or automated services are capable to delivering general information only.

The following examples show the brilliance and complexity of Applicant’s testing system. Welner is a system where individuals can get tested anonymously. Patients send in specimens and call to obtain results, nothing more. Most of the system is automated.

Applicant’s testing system differs greatly. Let us imagine a situation where an important political figure, such as a congressperson, has not been very faithful and is quite troubled by conducting routine testing. As a consequence of failure to test, health risks arise. On the other hand, a newm cheaper healthcare provider for the Congress agrees to provide coverage as long as annual check-up exams for cholesterol and venereal diseases are conducted. The healthcare provider is not interested in actual results, it just wants to

promote regular health checks and force people into preventative treatment. Absent Applicant's system, there is simply no possible solution that will reconcile these interests.

Using Applicant's system, the political figure can call in anonymously, get information from a call handler, such as "when must the test be done, how much blood must be placed on the specimen." After giving his personal identification code, the political figure may move into a counseling phase. Counseling is unrelated to simple call handling. Using Applicant's system, the counselor will know he is talking to a congressperson because of the code lot will give information about the specific coverage of the caller.

At p. 4 of the Office Action, when the Examiner considers a caller trying to receive general information and then being transferred to a customer service representative as equivalent to a user having a desire to be counseled, the Examiner is wrong. The difference is the same as calling the USPTO hotline to get general information and taking to the hotline representative, and being transferred to the Examiner after giving the Application number over the phone.

For this reason, Welner does not teach the step of "querying said user as to whether said user desires counseling." The *prima facie* case of obviousness is not met. Accordingly, claim 21 and all claims depending therefrom are allowable. Such action is requested.

B. The Recited Steps of Claim 21 are Amended

In response to the Examiner's claim at p. 5 of the Office Action that the last portion of claim 21 is not functionally involved in the steps recited, Applicant amends claim 21 and places the different functions as part of the steps of the method. This amendment also addresses the 35 U.S.C. § 112 rejection of the Examiner, which is now moot since the term "counseling" is given antecedent basis.

Applicant further adds the term "specific counselor information" as an element of the method. This information must be prepared and given to the counselor at different steps. Support for this amendment is found at Fig. 11 shown as boxes 1114, 1118, 1122, 1125, 1131, and 1134 and at p. 14 of the specification. Fig. 11 shows how, once the user is asked if counseling is needed, the system builds information to be provided to any selected counselor.

Hollatz teaches an automatic call distribution system where different software (108a–108n) routes calls to skill groups (110a–110n). The call system is unrelated to Applicant's technology. Furthermore, Hollatz defines skills of their agents as "having one or more skills deemed useful in handling the specific needs of the caller." A skill is helpful based on specific needs of the caller. Code lots are not based on specific needs of the caller. Applicant reasserts the previously made argument that code lots are not the Hollatz skill groups or these skill groups are not formed by code lots in the specimen population. Patentable weight must be given to all of the elements and

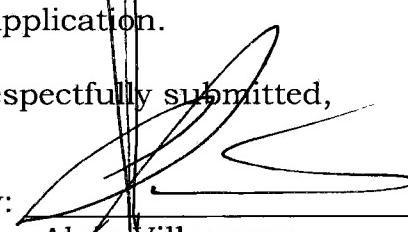
limitations of the newly amended claims. The claims are nonobvious over the cited art. Allowance is solicited.

III. Conclusion

The Commissioner is hereby authorized to charge any underpayment or credit any overpayment to Deposit Account No. 22-0259 or any payment in connection with this communication, including any fees for extension of time, that may be required. The Examiner is invited to call the undersigned if such action might expedite the prosecution of this application.

Respectfully submitted,

By:


Alain Villeneuve
Reg. No. L-215

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Vedder Price P.C.
222 N. LaSalle St., Suite 2600
Chicago, Illinois 60601-1003
(312) 609-7745
(312) 609-5005 (fax)